

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

BOBBY LEE BROOKS,)	
)	
Plaintiff,)	
)	
v.)	No. 3:10-CV-466
)	
STATE OF TENNESSEE, <i>et al.</i> ,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

This matter is before the Court on the Plaintiff's Motion/Application for Leave to Appeal *In Forma Pauperis* [Doc. 8], which has been referred to this Court, pursuant to 28 U.S.C. § 636(b) and the Rules of this Court, for disposition or for report and recommendation as may be appropriate. The Plaintiff has filed the his Motion/Application for Leave to Appeal *In Forma Pauperis* [Doc. 8], along with a Notice of Appeal [Doc. 7].

In his Motion/Application to Proceed *In Forma Pauperis* [Doc. 8], the Plaintiff asks to proceed on appeal without payment of fees or costs. Pursuant to the Federal Rules of Appellate Procedure, a party requesting to proceed on appeal *in forma pauperis* must obtain pauper status under Federal Rule of Appellate Procedure 24(a). See Callihan v. Schneider, 178 F.3d 800, 803-04 (6th Cir. 1999). He or she must first file a motion seeking such relief with the district court. See Fed. R. App. P. 24(a)(1). "With that motion, the individual must attach an affidavit showing in detail the information prescribed by Form 4 of the Appendix of Forms to the Federal Rules of Appellate Procedure: the individual's ability to pay or give security for fees and costs; the right to

redress; and the issues the party intends to present on appeal. Callihan, 178 F.3d at 803 (citing Fed. R. Civ. P. 24(a)(1)). If the district court denies pauper status, the party may file a motion to proceed *in forma pauperis* in the Court of Appeals. Fed. R. App. P. 24(a)(4)-(5).

In the instant case, the Plaintiff has presented no affidavit or other evidence demonstrating his inability to pay or give security for fees and costs on appeal. Further, his Notice of Appeal [Doc. 7] does not state any right to redress nor any issues the Plaintiff intends to pursue on appeal. Thus, the Plaintiff has not fulfilled the prerequisites to proceeding *in forma pauperis*.

Accordingly, the Court **RECOMMENDS**¹ that the Court **DENY** Plaintiff's Motion/Application for Leave to Appeal *In Forma Pauperis* [Doc. 8], and **ORDER** that if Plaintiff intends to pursue his appeal, he must also pay the full \$455 appellate filing fee or file a motion to proceed *in forma pauperis* and supporting affidavit in the United States Court of Appeals for the Sixth Circuit within thirty (30) days.

Respectfully Submitted,

s/ H. Bruce Guyton
United States Magistrate Judge

¹Any objections to this Report and Recommendation must be served and filed within fourteen (14) days after service of a copy of this recommended disposition on the objecting party. Fed. R. Civ. P. 72(b)(2). Such objections must conform to the requirements of Rule 72(b), Federal Rules of Civil Procedure. Failure to file objections within the time specified waives the right to appeal the District Court's order. Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985). The district court need not provide *de novo* review where objections to this report and recommendation are frivolous, conclusive or general. Mira v. Marshall, 806 F.2d 636 (6th Cir. 1986). Only specific objections are reserved for appellate review. Smith v. Detroit Federation of Teachers, 829 F.2d 1370 (6th Cir. 1987).